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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/596,837

06/27/2006

David A. Bell

GB040014

1182

24737

7590

09/25/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

BARNES-BULLOCK, CRYSTAL JOY

ART UNIT

PAPER NUMBER

2121

MAIL DATE

DELIVERY MODE

09/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/596,837	<b>Applicant(s)</b> BELL, DAVID A.	
	<b>Examiner</b> Crystal J. Barnes Bullock	<b>Art Unit</b> 2121	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 9-17, 22 and 23 is/are rejected.
- 7) ☒ Claim(s) 5, 8 and 18-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. The following is an initial Office Action upon examination of the above-identified application on the merits. Claims 1-23 are pending in this application.

#### *Priority*

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has complied with the conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 365(c).
3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### *Drawings*

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: reference numbers 315 and 352 in figure 1; reference numbers 135 and 155 in figure 4; reference number 155 in figure 5.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the

invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-4, 6, 7, 9-17, 22 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by USPN 7,142,204 B2 to Shiotsu et al.

As per claim 1, the Shiotsu et al. reference discloses a control apparatus for a portable device, the portable device comprising a power source ("battery") and a processing system (see column 4 lines 1-4, "signal processing means 4") for processing media content ("converting data signals") received from a service provider ("digital terrestrial TV broadcast reception means 3") via a delivery channel (see columns 4-5 lines 65-2, "SDTV-correlative picture quality, HDTV-correlative picture quality"), the control apparatus being arranged to: determine remaining capacity (see column 5 lines 5-8, "residual battery information acquisition unit 33") of the power source ("battery"); receive information from the service provider (see column 3 lines 61-67, "digital terrestrial TV broadcast reception means 3") about available delivery parameters (see column 4 lines 12-18, "program image quality determining means 6") for an item of content ("electronic program guide"); determine an operating duration (see column 4 lines 12-18, "potential viewing duration predicting means 7") for the device (see column 4 lines

35-37, "notebook PC 10") based on the delivery parameters ("program image quality determining means 6") and the remaining capacity ("residual battery information acquisition unit 33") of the power source ("battery"); and send a request to the service provider (see column 5 lines 23-35, "channel-change demand, channel-control signal") specifying at least one delivery parameter ("program image quality determining means 6") for delivery of the content ("SDTV-correlative picture quality, HDTV-correlative picture quality"), based on the determination of the operating duration ("potential viewing duration predicting means 7").

As per claim 2, the Shiotzu et al. reference discloses the information received from the service provider ("digital terrestrial TV broadcast reception means 3") includes a duration of the item ("potential viewing duration predicting means 7") of media content (see column 4 lines 19-22, "electronic program guide information") and the step of sending a request to the service provider ("channel-change demand, channel-control signal") comprises sending a parameter ("channel-change demand") which will allow the portable device ("notebook PC 10") to operate for a period of time (see column 5 lines 23-31, "predetermined value") which equals or exceeds the duration of the item ("potential viewing duration predicting means 7") of media content ("electronic program guide information").

As per claim 3, the Shiotsu et al. reference discloses the information received from the service provider ("digital terrestrial TV broadcast reception means 3") indicates a plurality of alternative delivery parameters (see columns 4-5 lines 65-2, "SDTV-correlative picture quality, HDTV-correlative picture quality") for the same item of content ("electronic program guide information") and the control apparatus (see column 3 lines 61-4, "information processing device 1") is arranged to determine an operating duration ("potential viewing duration predicting means 7") for each of the alternative delivery parameters (see column 6 lines 18-28, "five hours ... SDTV program, HDTV program ... 2 hours").

As per claim 4, the Shiotsu et al. reference discloses a control apparatus which is arranged to determine an operating duration ("potential viewing duration predicting means 7") by making use of stored information (see column 6 lines 13-17, "first table 35, second table 36") about expected duration ("potential viewing duration predicting unit 32").

As per claim 6, the Shiotsu et al. reference discloses a control apparatus which is further arranged to send information ("digital terrestrial TV broadcast reception means 3") about available options for delivery (see columns 4-5 lines 65-2, "SDTV-correlative picture quality, HDTV-correlative picture quality") of the

media content ("electronic program guide information") to a user interface (see column 4 lines 7-11, "display means 5") of the portable device ("notebook PC 10").

As per claim 7, the Shiotsu et al. reference discloses a control apparatus which is further arranged to receive, from the user interface ("display means 5"), a selection of an available option ("channel-change demand, channel-control signal") and the step of sending a request to the service provider ("channel-change demand, channel-control signal") is based on the selection received ("channel-change demand, channel-control signal") from the user interface ("display means 5").

As per claim 9, the Shiotsu et al. reference discloses the delivery parameters ("program image quality determining means 6") include at least one of: delivery data rate, video quality (see columns 4-5 lines 65-2, "SDTV-correlative picture quality, HDTV-correlative picture quality"), video format (see columns 4-5 lines 65-2, "SDTV-correlative picture quality, HDTV-correlative picture quality"), video resolution, frame rate, colour depth and audio quality.

As per claim 10, the Shiotsu et al. reference discloses the media content ("electronic program guide information") is delivered to the portable device ("notebook PC 10") by a streaming operation ("digital terrestrial TV broadcast reception means 3").



As per claim 11, the Shiotsu et al. reference discloses a control apparatus which is arranged to automatically send the request to the service provider ("channel-change demand, channel-control signal") based on stored user preferences (see column 6 lines 13-17, "first table 35, second table 36").

As per claim 12, the Shiotsu et al. reference discloses a control apparatus which is arranged to determine the operating duration ("potential viewing duration predicting means 7") and to send the request to the service provider ("channel-change demand, channel-control signal") during delivery of the media content ("digital terrestrial TV broadcast reception means 3").

As per claim 13, the Shiotsu et al. reference discloses a control apparatus which is arranged to determine the operating duration ("potential viewing duration predicting means 7") a plurality of times (see column 6 lines 18-28, "five hours ... SDTV program, HDTV program ... 2 hours") during delivery of media content ("digital terrestrial TV broadcast reception means 3").

As per claim 14, the Shiotsu et al. reference discloses a portable device comprising a power source ("battery"), a processing system (see column 4 lines 1-4, "signal processing means 4") for processing media content ("converting data signals") received from a service provider ("digital terrestrial TV broadcast

reception means 3") via a delivery channel (see columns 4-5 lines 65-2, "SDTV-correlative picture quality, HDTV-correlative picture quality") and the control apparatus ("information processing device 1").

As per claim 15, the Shiotsu et al. reference discloses a method of operating a portable device which comprises a power source ("battery") and a processing system (see column 4 lines 1-4, "signal processing means 4") for processing media content ("converting data signals") received from a service provider ("digital terrestrial TV broadcast reception means 3") via a delivery channel (see columns 4-5 lines 65-2, "SDTV-correlative picture quality, HDTV-correlative picture quality"), the method comprising: determining (see column 5 lines 5-8, "residual battery information acquisition unit 33") of the power source ("battery"); receiving information from the service provider (see column 3 lines 61-67, "digital terrestrial TV broadcast reception means 3") about available delivery parameters (see column 4 lines 12-18, "program image quality determining means 6") for an item of content ("electronic program guide"); determining an operating duration (see column 4 lines 12-18, "potential viewing duration predicting means 7") for the device (see column 4 lines 35-37, "notebook PC 10") based on the delivery parameters ("program image quality determining means 6") and the remaining capacity ("residual battery

information acquisition unit 33") of the power source ("battery"); and sending a request to the service provider (see column 5 lines 23-35, "channel-change demand, channel-control signal") specifying at least one delivery parameter ("program image quality determining means 6") for delivery of the content ("SDTV-correlative picture quality, HDTV-correlative picture quality"), based on the determination of the operating duration ("potential viewing duration predicting means 7").

As per claim 16, the Shiotsu et al. reference discloses software for controlling operation of a portable device comprising a power source ("battery") and a processing system (see column 4 lines 1-4, "signal processing means 4") for processing media content ("converting data signals") received from a service provider ("digital terrestrial TV broadcast reception means 3") via a delivery channel (see columns 4-5 lines 65-2, "SDTV-correlative picture quality, HDTV-correlative picture quality"), the software being arranged to cause a processor of the portable device to perform the steps of: determining (see column 5 lines 5-8, "residual battery information acquisition unit 33") of the power source ("battery"); receiving information from the service provider (see column 3 lines 61-67, "digital terrestrial TV broadcast reception means 3") about available delivery parameters (see column 4 lines 12-18, "program image quality determining means 6") for an item

of content ("electronic program guide"); determining an operating duration (see column 4 lines 12-18, "potential viewing duration predicting means 7") for the device (see column 4 lines 35-37, "notebook PC 10") based on the delivery parameters ("program image quality determining means 6") and the remaining capacity ("residual battery information acquisition unit 33") of the power source ("battery"); and sending a request to the service provider (see column 5 lines 23-35, "channel-change demand, channel-control signal") specifying at least one delivery parameter ("program image quality determining means 6") for delivery of the content ("SDTV-correlative picture quality, HDTV-correlative picture quality"), based on the determination of the operating duration ("potential viewing duration predicting means 7").

As per claim 17, the Shiotsu et al. reference discloses a method of delivering media content from a service provider to a portable device comprising: sending information (see column 4 lines 35-37, "wireless digital television receiving module 12") to the portable device ("notebook PC 10") about available delivery parameters (see columns 4-5 lines 65-2, "SDTV-correlative picture quality, HDTV-correlative picture quality") for an item of media content ("EPG information"); receiving a request (see column 5 lines 32-35, "channel control signal, channel

control demand") from the portable device ("notebook PC 10") specifying at least one delivery parameter ("SDTV-correlative picture quality, HDTV-correlative picture quality") for delivery of the content ("program"), the parameter ("SDTV-correlative picture quality, HDTV-correlative picture quality") being selected by the portable device ("notebook PC 10") in response to determining an operating duration (see column 5 lines 9-20, "potential viewing duration calculating unit 34") of the device ("notebook PC 10") based on the delivery parameters ("SDTV-correlative picture quality, HDTV-correlative picture quality") and the remaining capacity of the power source ("remaining battery capacity information"); and delivering the item ("wireless digital television receiving module 12") of media content ("program") to the portable ("notebook PC 10") device using the requested parameter ("channel control signal, channel control demand, SDTV-correlative picture quality, HDTV-correlative picture quality").

As per claim 22, the Shiotsu et al. reference discloses the step of delivering the item ("wireless digital television receiving module 12") of media content ("program") is a streaming operation ("wireless digital television receiving module 12").

As per claim 23, the Shiotsu et al. reference discloses apparatus (see column 4 lines 33-34, "portable information processing device") for performing the method.

*Allowable Subject Matter*

7. Claims 5, 8 and 18-21 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art with respect to distributing/delivering media content to portable devices in general:

USPN 7,219,153 B1 to Day

USPN 7,028,203 B2 to Nakai

USPN 6,584,825 B2 to Pratt et al.

US Pub. No. 2003/0018581 A1 to Bratton et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Crystal J. Barnes Bullock whose telephone number is 571.272.3679. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 571.272.3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Crystal J. Barnes Bullock/  
Primary Examiner, Art Unit 2121  
23 September 2008